

3

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 732 OF 2004 ✓

PETITIONER :

Narayan,
Aged 60 years, s/o. Kalashram,
Caste- Aghariya, agriculturist
r/o. Village Dhalam, P.C.No. 17,
R.I. Circle Bhanwarpur, Tehsil
Basna,
Distt. Mahasamund (C.G.)

P. R. No. 723/04
Presented by Shri P. R. No. 723/04
Distt. Basna

VERSUS

RESPONDENTS :

1. Krishna Chandra
aged 55 years, s/o. Late Ramsay
Patel, agriculturist, r/o. Village
Dhalam, P.C. No. 17, R.I. Circle
Bhanwarpur, Tehsil Basna,
Distt. Mahasamund (C.G.)
2. State of Madhya Pradesh
(now Chhattisgarh),
through Collector Mahasamund
(C.G.)

RECEIVED COPY
24/10/04
Clerk to A. G. Bilaspur

**WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN
THE NATURE OF MANDAMUS, CERTIORARY AND/OR ANY
OTHER SUITABLE WRIT OF LIKE NATURE**





HIGH COURT OF CHHATTISGARH AT BILASPUR

D.B.: Hon'ble Mr. Justice Abhay Manohar Sapre &
Hon'ble Mr. Justice G. Minhajuddin

Writ Petition No.732 of 2004

PETITIONER

Narayan

Versus

RESPONDENTS

Krishna Chandra and others

WRIT PETITION UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA

Appearance :

Mr. Pawan Kesharwani, Counsel for the petitioner.
Mr. R.S. Patel, Counsel for respondent No.1.
Mr. Shashank Thakur, Panel Lawyer for the State.

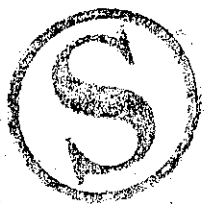
ORAL ORDER
(13.07.2012)

The following order of the Court was passed by
Abhay Manohar Sapre, J.

Heard.

(2) This is a writ petition filed by the writ petitioner (defendant) under Article 227 of the Constitution of India, questioning the legality and propriety of the judgment dated 20.09.2003 passed by the Civil Judge Class-I, Saraipali in Civil Suit No. 38 "A"/2002.

(3) By the impugned judgment and decree, the learned Civil Judge was pleased to allow the plaintiff's suit filed under Section 6 of the Specific Relief Act and grant decree, as claimed by the plaintiff against the defendant, in relation to the suit land.



(4) In our opinion, filing of a writ petition by the writ petitioner (defendant) appears to be a misconceived remedy resorted to by him. What is barred under Section 6 sub-section 3 of the Specific Relief Act is either appeal or review against such order or decree, but not the Revision under Section 115 of the Code of Civil Procedure. It is for the simple reason that any order passed by the Subordinate Court to the High Court is revisable, if there is no provision of filing any appeal against such judgment or decree. Such is the case here.

(5) In the light of this discussion, we decline to interfere in the writ petition filed by the writ petitioner under Article 227 of the Constitution of India, but grant liberty to the writ petitioner (defendant) to file a revision under Section 115 C.P.C. in accordance with law to get rid of the impugned judgment and decree passed by learned Civil Judge under Section 6 of the Specific Relief Act in the suit out of which this writ petition arises.

(6) Needless to observe, since in the meantime, much period has expired, the petitioner can also take recourse to filing of a Civil Suit to establish his title to the property in question and recover possession thereof, as provided under Section 6(4) of the Act, if law so permits him to do so.

(7) The writ petition is accordingly dismissed but subject to the aforesaid liberty granted to the petitioner.

(8) No cost.

Sd/-

(Abhay Manohar Sapre)
JUDGE

Sd/-

(G. Minhajuddin)
JUDGE